

2016 APR 29 AM 9:30

BEFORE THE FEDERAL ELECTION COMMISSION

CELA

In the Matter of)
) MUR 6783
Manju for Congress, Inc. and Rajeev)
Goel in his official capacity as treasurer;)
Indian Americans for Freedom, NFPC;)
Shalabh Kumar)

CERTIFICATION

I, Shelley E. Garr, recording secretary of the Federal Election Commission executive session, do hereby certify that on April 26, 2016, the Commission took the following actions in the above-captioned matter:

1. Decided by a vote of 6-0 to:

Dismiss the allegation with respect to the provision, receipt, and reporting of legal services.

Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

2. Decided by a vote of 6-0 to:

- a. Approve both the Factual and Legal Analysis for Manju for Congress, Inc. and Rajeev Goel in his official capacity as treasurer and the Factual and Legal Analysis for Indian Americans for Freedom and Shalabh Kumar subject to the edits last circulated by Chairman Petersen's Office on Monday, April 25, 2016 at 3:09 P.M. with the addition of a revision to the Manju for Congress Factual and Legal Analysis as follows:

- b. Authorize technical and conforming edits.

Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

Attest:

April 28, 2016
Date

Shelley E. Gann
Shelley E. Gann
Deputy Secretary of the Commission

17044412485



FEDERAL ELECTION COMMISSION
Washington, DC 20463

Karl S. Bowers, Jr., Esq.
Bowers Law Office, LC
P.O. Box 50549
Columbia, SC 29250

MAY 18 2016

RE: MUR 6783
Indian Americans for Freedom, NFPC
Shalabh Kumar

Dear Mr. Bowers:

On February 25, 2014, the Federal Election Commission (the "Commission") notified your clients, Mr. Shalabh Kumar and Indian Americans for Freedom, NFPC ("IAFF"), of a complaint alleging that they may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"), and provided them with a copy of the complaint.

After reviewing the allegations contained in the complaint, responses to the complaint, and publicly available information, the Commission on November 15, 2015, found reason to believe that IAFF violated 52 U.S.C. §§ 30116(a)(1)(A) or 30118(a) (formerly 2 U.S.C. §§ 441a(a)(1)(A) and 441b(a)), provisions of the Act, by making excessive or prohibited in-kind contributions to Manju for Congress, Inc. as a result of republishing campaign materials.

On the same day, the Commission found no reason to believe that Shalabh Kumar or IAFF violated 52 U.S.C. §§ 30116(a)(1)(A) or 30118(a) by making excessive or prohibited in-kind contributions to Manju for Congress in the form of office space and payments of staff and contractor salaries, and bus travel. Further, on April 26, 2016, the Commission dismissed the allegation that IAFF or Shalabh Kumar violated the Act with respect to the provision of legal services in connection with Manju Goel's election. Enclosed is a Factual and Legal Analysis that sets forth the basis for the Commission's determinations.

Please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519.

To expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations with IAFF directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to IAFF as a way to

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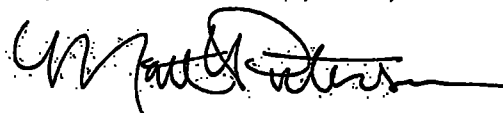
resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that IAFF violated the law.

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If your client is interested in engaging in pre-probable cause conciliation, please contact Dawn M. Odrowski, the attorney assigned to this matter, at (202) 694-1591 or (800) 424-9530, within seven days of receipt of this letter. During conciliation, you may submit any factual or legal materials that you believe are relevant to the resolution of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within sixty days. See 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A). Conversely, if your client is not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

In the meantime, this matter will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. Please be advised that, although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.¹

We look forward to your response.

On behalf of the Commission,



Matthew S. Petersen
Chairman

Enclosures
Factual and Legal Analysis
Conciliation Agreement

¹ The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Indian Americans for Freedom, NFPC MUR 6783
Shalabh Kumar

I. INTRODUCTION

The Complaint in MUR 6783 alleges that Indian Americans for Freedom, NFPC ("IAFF"), a 501(c)(4) organization, and its founder, Shalabh Kumar (collectively, "Respondents") violated the Federal Election Campaign Act of 1971, as amended (the "Act"), by making prohibited or excessive in-kind contributions to the campaign of Congressional candidate Manju Goel in the form of coordinated mailings, free office space, and payments for staff salaries and other campaign expenses. IAFF and Kumar filed a joint response ("IAFF Resp.") to the Complaint denying that they violated the Act.

Based on the available record, the Commission finds reason to believe that IAFF made excessive or prohibited in-kind contributions in violation of 52 U.S.C. §§ 30116(a)(1)(A) or 30118(a) (formerly 2 U.S.C. §§ 441a(a)(1)(A) and 441b(a))¹ by republishing Manju Goel campaign materials in one of its mailings.² The record does not, however, support the Complaint's allegations that IAFF or Kumar made in-kind contributions to Manju for Congress, Inc. ("MFC"), Goel's principal campaign committee, by providing office space, payments of staff and contractor salaries, or bus travel. Therefore, the Commission finds no reason to believe

¹ On September 1, 2014, the Federal Election Campaign Act of 1971, as amended (the "Act"), was transferred from Title 2 to new Title 52 of the United States Code.

² Because it is unclear whether IAFF was an active corporation at the time it distributed the mailings attached to the Complaint, *see infra* at page 6, the Commission finds reason to believe that IAFF made an excessive or prohibited contribution.

as to those allegations. Further, the Commission dismisses the allegation with respect to the provision of legal services as an exercise of prosecutorial discretion.³

II. FACTS

IAFF incorporated in the State of Illinois on October 2, 2012, as a non-profit corporation and is a social welfare organization tax exempt under section 501(c)(4) of the Internal Revenue Code.⁴ IAFF reports its independent expenditures to the Commission on Form 5, Report of Independent Expenditures Made and Contributions Received ("IE Reports"), which is used by persons other than political committees.⁵ Shalabh Kumar founded IAFF and served as its chairman and director until May 15, 2013, when he resigned.⁶ In his resignation letter to the Board of Directors, posted on IAFF's website and attached to the Response to the Complaint, Kumar states that effective that day, "I will no longer be involved in the affairs of [IAFF] due to my new responsibilities in various Republican/Conservative organizations in Washington,

³ See *Heckler v. Chaney*, 470 U.S. 821 (1985).

⁴ See Letter to Commission from Alka Tyle accompanying Form 5, IE Report, 24-Hour Report (Nov. 28, 2012) ("Nov. 28, 2012, 24-Hour Report"), <http://docquery.fec.gov/pdf/789/12030954789/12030954789.pdf>. The Illinois Secretary of State's corporations database confirms that IAFF registered as a non-profit corporation on October 2, 2012, but it appears IAFF was not in good standing at the time the Complaint was filed. IAFF also registered with the Internal Revenue Service as a Section 527 organization on September 10, 2012. Form 8871, Political Organization Notice of Section 527 Status, Indian Americans for Freedom (Sept. 10, 2012), available at the IRS website, Political Organizations database, <http://forms.irs.gov/app/pod/basicSearch/search?execution=e2s1>.

⁵ Approximately three weeks prior to incorporating, IAFF had registered with the Commission as an independent expenditure-only political committee, but requested termination on November 28, 2012, having reported no activity. Letter and Statement of Organization filed by IAFF (Sept. 12, 2012), <http://docquery.fec.gov/pdf/152/12030883152/12030883152.pdf>; IAFF Termination Report (Nov. 28, 2012), <http://docquery.fec.gov/pdf/795/12030954795/12030954795.pdf>. When IAFF filed its 24-Hour Report on November 28, 2012, it explained in a cover letter that the IEOPC had terminated and the newly incorporated 501(c)(4) non-profit organization needed a new FEC committee identification number. See Nov. 28, 2012, 24-Hour Report, *supra*, n.2; see also Letter to IAFF from Reports Analysis Division, FEC, approving termination (Nov. 30, 2012), <http://docquery.fec.gov/pdf/438/12330017438/12330017438.pdf>. The Complaint alleges that IAFF is an IEOPC that is prohibited from making direct or in-kind contributions to federal candidates or committees. Compl. at 2 (Feb. 18, 2014). Because IAFF is a Form 5 filer and not an IEOPC, we do not specifically address that allegation.

⁶ IAFF Resp. at 1, Ex. A (Mar. 18, 2014).

1 DC”⁷ Kumar also stated in the letter that another individual, Brij L. Sharma, had agreed to
2 serve as IAFF’s new Chair.

3 Following his stated resignation from IAFF, Kumar was actively involved in the
4 Congressional campaign of Manju Goel, a candidate in the 2014 primary election in Illinois’ 8th
5 Congressional District.⁸ Kumar appeared with Goel at a local Republican party picnic where she
6 announced her candidacy on September 8, 2013.⁹ According to the Complaint, Kumar managed
7 the campaign’s daily operations, including hiring and firing staff, appeared with Goel at
8 campaign events in the district and in Washington, D.C., and handled press inquiries for the
9 campaign.¹⁰ The response does not dispute Kumar’s activities on behalf of the campaign, and it
10 acknowledges his support for Goel.¹¹ It emphasizes, however, that he was acting in his capacity
11 as a private citizen and was no longer associated with IAFF.¹²

12 IAFF also supported Goel’s election by making approximately \$267,146 in independent
13 expenditures in support of Goel, all reported by IAFF as financed by Vikram Aditya Kumar,
14 Shalabh Kumar’s son.¹³ Among IAFF’s independent expenditures were \$172,501 for mailings
15 and “flyers” distributed between January 23, 2014, and March 3, 2014. Information ascertained

⁷ *Id.* Kumar reportedly represented that his new responsibilities included chairing a project to field 10 Indian-American GOP Congressional candidates. Compl. at 3. (referencing Stephen Zalusky, *Goel Announces 8th Congressional Candidacy*, DAILY HERALD (Sept. 9, 2013), <http://www.dailyherald.com/article/20130909/news/709099904>.)

⁸ Goel lost the March 18, 2014, primary election with 21.8% of the vote.

⁹ Compl. at 3.

¹⁰ *Id.*

¹¹ IAFF Resp. at 2.

¹² *Id.*

¹³ See IAFF 48-Hour Report (Feb. 12, 2014), <http://docquery.fec.gov/pdf/615/14031183615/14031183615.pdf>; IAFF Amended 2014 April Quarterly Report (Apr. 18, 2014), <http://docquery.fec.gov/pdf/338/14940756338/14940756338.pdf> (listing Vikram Kumar as the sole contributor to IAFF).

1 by the Commission indicates IAFF disseminated at least six mailings expressly advocating the
2 election of Goel or the defeat of her opponent, Larry Kafeish, in the primary election. Two of
3 IAFF's mailings were attached to the Complaint, and one is discussed below.¹⁴

4 **III. ANALYSIS**

5 The Complaint alleges that IAFF and Kumar improperly made a number of in-kind
6 contributions to MFC because they are "for all practical purposes, running and financing
7 [Goel's] campaign," including engaging in "an active mail campaign on behalf of the candidate"
8 and in coordination with the candidate, and paying for the campaign's office space and other
9 services.¹⁵

10 **A. There is Reason to Believe that IAFF Made an In-Kind Contribution to MFC**
11 **by Republishing Goel's Campaign Materials**
12

13 Under the Act, "the financing by any person of the dissemination, distribution, or
14 republication, in whole or in part, of any broadcast or any written, graphic, or other form of
15 campaign materials prepared by the candidate, his campaign committees, or authorized agents
16 shall be considered an expenditure."¹⁶ Pursuant to the Commission's regulations, the
17 republication of campaign materials prepared by a candidate's authorized committee is
18 considered a contribution for purposes of contribution limitations and reporting responsibilities
19 of the person making the expenditure.¹⁷

20 The Complaint attaches copies of two IAFF mailings and an MFC mailing that had been
21 mailed in the Congressional District as of February 15, 2014, and alleges that the similarities in

¹⁴ See Compl. Ex. L.

¹⁵ Compl. at 1-2, 4.

¹⁶ 52 U.S.C. § 30116(a)(7)(B)(iii) (formerly 2 U.S.C. § 441a(a)(7)(B)(iii)).

¹⁷ 11 C.F.R. § 109.23.

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1 the messaging, the use of the same candidate photos and typesetting, and the fact that all were
2 mailed using the same bulk mail permit number “demonstrate coordination between IAFF and
3 MFC.”¹⁸ The response does not address the mailings.

4 An examination of the mailings shows that one of IAFF’s mailings, *Where’s Larry*,
5 contains much of the same content as in MFC’s mailing. Copies of the two mailings are
6 appended as Attachment A and illustrate the replicated material. *Where’s Larry* and MFC’s
7 mailing are both single-page, two-sided pieces. The following text, which comprises
8 approximately half of the back of *Where’s Larry*, is identical to text on the front of the MFC
9 mailer:¹⁹

10 Republican Manju Goel.
11 Best Conservative Candidate to Retire Tammy Duckworth from Congress
12 Manju Goel will ...
13 • Champion Freedom and Limited Government
14 • Champion Personal Responsibility
15 • Champion Common-sense Household
16 Fiscal Discipline in Washington, DC
17 • Grow our Party, Bring 20K+ new voters
18

19 According to IAFF’s 48-Hour Report of February 12, 2014, IAFF made two payments
20 totaling \$40,501 to One Step Printing (“One Step”), a vendor also used by MFC throughout the
21 campaign, for the first of its mailings distributed on January 23 and February 5, 2014.²⁰ Indeed,
22 the front of *Where’s Larry* contains the same bulk mail permit as on MFC’s mailing.²¹

¹⁸ Compl. at 4, Ex. L.

¹⁹ Attachment A at 2, 3.

²⁰ IAFF, 48-Hour Report (Feb. 12, 2014), *supra*, n.12; see MFC 2013 Year End, 2014 Pre-Primary and 2014 April Quarterly Reports, all disclosing debt and payments to One Step, totaling \$44,336 throughout the campaign for printing, postage, direct mail, and t-shirts.

²¹ *Id.* at 1, 3.

1 The comparison of IAFF's and MFC's mailings shows that IAFF included Goel's
2 campaign materials in one of its own mailers. By including MFC campaign materials in its
3 mailing expressly advocating Goel's election, IAFF made in-kind contributions to MFC under
4 the republication provisions of the Commission regulations.

5 As noted, IAFF incorporated on October 2, 2012, but the Illinois Secretary of State
6 record attached to the Complaint, does not clearly indicate whether IAFF maintained its
7 corporate registration in good order when the mailers were distributed.²² IAFF's IE Reports
8 disclose that it distributed mailings and flyers between January 23 and March 3, 2014. IAFF
9 may not have been an active corporation at the time it financed and distributed the *Where's Larry*
10 mailer. If it was an active corporation, it would have made a prohibited corporate contribution.
11 However, regardless of its corporate status, IAFF would have violated the Act. The Commission
12 therefore finds reason to believe that Indian Americans for Freedom violated 52 U.S.C.
13 §§ 30116(a)(1)(A) or 30118(a) (formerly 2 U.S.C. §§ 441a(a)(1)(A) and 441b(a)) by making
14 excessive or prohibited in-kind contributions to Manju for Congress.

15 **B. There is No Reason to Believe that IAFF Made In-Kind Contributions to**
16 **MFC By Paying for Office Space, Staff and Contractor Salaries, or Bus**
17 **Travel**
18

19 The Complaint also alleges that IAFF or Kumar (directly or through his companies) made
20 a number of other excessive or prohibited in-kind contributions to MFC.²³ We address each
21 specific allegation in turn.

22 First, the Complaint alleges, based on attached documentation, that MFC operates out of
23 the same offices as IAFF and companies owned and operated by Kumar, yet failed to disclose

²² Compl. Ex. A.

²³ Compl. at 2-4.

1 the receipt of any in-kind contribution for office space from any of them.²⁴ The available
2 information, however, indicates that MFC paid at least \$1,050 per month in rent to Kumar's
3 company, Autotech Technologies, LP, from October 2013 through March 2014, and disclosed
4 that amount on its disclosure reports.²⁵ Moreover, Respondents produced a letter dated
5 September 15, 2013, from a certified public accountant determining \$1,050 per month to be the
6 fair market value, and we have no information to the contrary.²⁶ Accordingly, it does not appear
7 that IAFF or Kumar, directly or through any of his companies, made in-kind contributions in the
8 form of office space.

9 Second, the Complaint alleges that Kumar or IAFF paid the salaries or other
10 compensation for six MFC campaign staffers and a contractor during the third quarter of 2013.²⁷
11 The Complaint apparently bases the allegation on MFC's 2013 October Quarterly Report, which
12 discloses the receipt of over \$200,000 in contributions but disbursements of only \$55 while
13 staffers and a contractor were allegedly working for the campaign. Information in the
14 Commission's possession indicates the campaign had no paid staff during the third quarter of
15 2013 because it was a nascent campaign during that time and brought on staff and a consultant
16 during the fourth quarter of 2013.²⁸ Goel filed her Statement of Candidacy on September 18,
17 2013, and MFC filed its Statement of Organization on the same day, twelve days before the end
18 of the reporting period. MFC's 2013 October Quarterly Report shows that it raised virtually all

²⁴ Compl. at 2-3.

²⁵ See IAFF Resp. at 1, Ex. B. (MFC check payable to Autotech in the amount of \$3,150 dated December 28, 2013, with memo line "Oct-Dec 2013 Rent-Internet for Office"); see also MFC 2013 Year End Report at 12 disclosing the \$3,150 payment; 2014 April Quarterly Report at 8 (\$5,100 payment to Autotech for "rent").

²⁶ See IAFF Resp. Ex. B.

²⁷ Compl. at 2.

²⁸ See, e.g., MFC 2013 Year End and 2014 Pre-Primary Reports (disclosing payments to staff and consultant).

1 of its funds in the last six days of the quarter, including \$25,000 from the candidate. Other than
2 the campaign kick-off at the September 8, 2013, local Republican Party picnic, known as the
3 Northwest Suburban Republican Family Picnic ("NW Picnic"), Complainant provides no
4 information about any campaign activity or events during the third quarter, and we are not aware
5 of any. These facts suggest that the campaign was a minimal operation at this point with little
6 need for paid assistance. Under these circumstances, it does not appear that Kumar or IAFF
7 made in-kind contributions to MFC in the form of payments for staff salaries or vendor services
8 during the 2013 October Quarterly reporting period.

9 Third, the Complaint alleges that Kumar personally paid to bus Goel supporters to the
10 NW Picnic.²⁹ The allegation appears to rest only on Kumar's involvement with the event. The
11 response does not address the allegation. However, a state committee bearing the same name as
12 the NW Picnic, formed to operate the picnic and registered with the Illinois State Board of
13 Elections, disclosed a \$390 payment on September 8, 2013, for a shuttle bus for the event.³⁰
14 Accordingly, it appears there was no in-kind contribution to MFC here.

15 Finally, the Complaint alleges that MFC failed to disclose the value of legal services
16 provided by Kumar's personal attorney to represent Goel in a State Board of Elections hearing
17 challenging her nominating petitions.³¹ In the proper ordering of its priorities and limited
18 resources, the Commission dismisses this allegation with respect to the provision of legal
19 services.³²

²⁹ Compl. at 3.

³⁰ See Illinois State Board of Elections website, <http://www.elections.il.gov/CampaignDisclosure/CommitteeDetail.aspx?id=25515>.

³¹ Compl. at 4.

³² See *Heckler v. Chaney*, 470 U.S. 821 (1985).

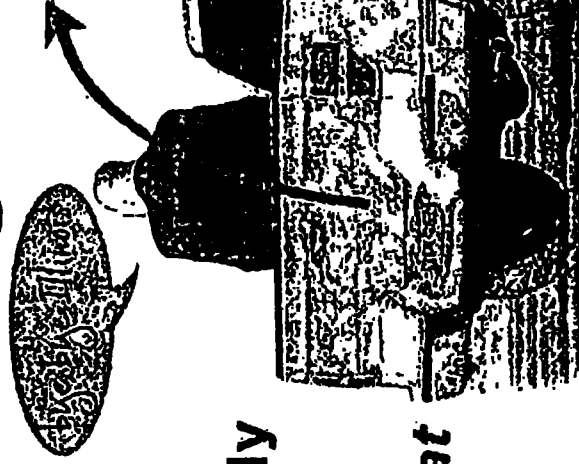
363 St Paul Blvd ★ Carol Stream, IL 60188
email: info@indianamericansforfreedom.com

Carpentersville, IL 60110-2404

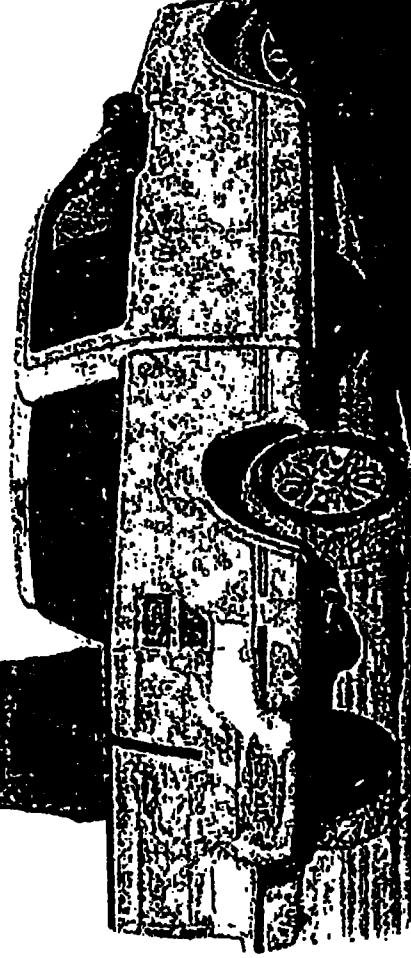
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***Let's make sure that
he stays that way!***

**We Deserve Better!!
Send Manju Goel to Congress from IL District 8!!**



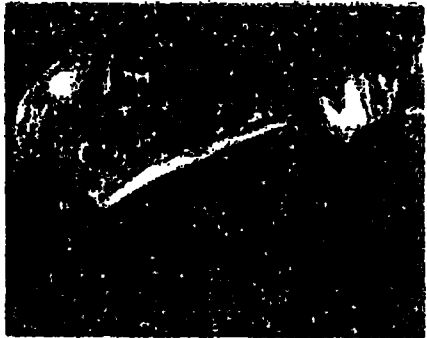
**Jan 3rd 2014, 3:48 pm
in Illinois with Virginia
License plates**



ATTACHMENT A
Page 1

Where's Larry? Just passing through?

- Away from Illinois for more than 10 years?
- How many years in Hollywood?
- 6 months lease ending 3.31.2014?
- Violating Illinois residency law?



Text and font is identical to MFC mailing

Republican Manju Goel.

Best Conservative Candidate to Retire Tammy Duckworth from Congress

Manju Goel will --

- Champion Freedom and Limited Government
- Champion Personal Responsibility
- Champion Common-sense Household Fiscal Discipline in Washington, DC
- Grow our Party, Bring 20K+ new voters and Win Elections for a change!

MFC MAILING

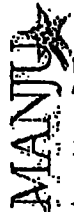
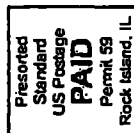


Republican Manju Goel.

*Best Conservative Candidate to
Retire Tammy Duckworth from Congress*

Manju Goel will ...

- Champion Freedom and Limited Government
- Champion Personal Responsibility
- Champion Common-sense Household Fiscal Discipline in Washington, DC
- Grow our Party; Bring 20K+ new voters



Box 58227
Chicago, IL 60682-0227
Rock Island, IL 60181-2519

PAID FOR BY MANJU FOR CONGRESS

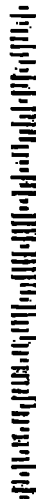
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www.ManjuforCongress.com

AUTO-DIGIT 60181 21,304-56-29

Richard Crosley

Villa Park, IL 60181-2519



Manju Goel: The Best Republican to Grow the Party, Bring 20K+ New Voters and Retake the 8th Congressional District of Illinois.



Manju Goel endorsed by Joe Walsh & Top National Leaders of Republican Party



Manju Goel is a first-generation U.S. citizen. Her life and career are a testament to the value of hard work and personal responsibility, and also to the hope and opportunity that is America.

Manju brings a unique perspective to our country's problems and proposed solutions. While she has lived the American Dream, she has also seen firsthand the consequences of Washington policies that encourage welfare and handouts and discourage hard work. Manju saw the country of her birth faced near bankruptcy in 1991 because of the failed policies of big government, high taxes and massive regulations.

As a first generation Indian American, Manju is uniquely qualified to broaden our base, grow our party and retake Illinois' 8th District. With almost twenty percent of general election voters in 2014 coming from the Indian American community, Manju Goel is our best hope to send a conservative voice to Washington, D.C.

As our next Congresswoman, Manju will work tirelessly for common-sense fiscal solutions that ensure America get back on the right track.

Manju Goel

- First generation Indian American Immigrant
- Mother of two college-aged children
- B.S. in Computer Science
- Small Businesswoman & Six Sigma Process Improvement Specialist in Healthcare

Manju's Platform

- Pass Constitutional amendment to balance budget
- Retire Obamacare
- Cut spending, deficits and national debt
- Encourage free enterprise, hard work and success, and personal responsibility
- Lower taxes on hard working families and small businesses
- Eliminate Death Tax
- Reduce size of federal government
- Cut foreign aid to all countries that support terrorism

www.ManjuForCongress.com 630-974-8252